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BK 833 PG 255  
W.E. DAVIS CH. CLK.

### MODIFICATION AGREEMENT

This Agreement, made and entered into this 3rd day of May, 1996, by and between **FIRST COMMERCIAL BANK, N.A. OF MEMPHIS**, 6263 Poplar Avenue, Memphis, Tennessee, 38119 (the "Bank"), and Joseph Poppenheimer ~~Bowden~~ (the "Borrower").

### RECITALS

A. The Borrowers have executed and delivered a certain Note dated October 10, 1995, in the original principal amount of \$950,000.00 (the "Note") and Deed of Trust on property located in DeSoto County, Mississippi, the Deed of Trust being dated October 10, 1995, and recorded in the DeSoto County, Mississippi Chancery Clerk's Office in Plat Book 787 page 729 (the "Deed of Trust"), to which reference is made for a more particular description of the property and the indebtedness secured thereby.

B. The Bank is the Holder of the Note secured by the Deed of Trust.

C. The parties desire to modify and amend the terms of the Note and Deed of Trust as provided herein.

### AGREEMENT

Now, therefore, for and in consideration of the mutual covenants and benefits to the parties, it is agreed:

1. **MODIFICATION OF THE NOTE.** The following modifications to the Note shall be effective as of April 10, 1996 (the "Effective Date"):

a. **Interest Rate:** The rate of interest on the unpaid balance of Principal of the Note shall be a variable rate with the initial rate of 9.75%. This rate may change as outlined herein.

**Index Rate:** The rate will be 1.50% above the following index rate; New York prevalent prime as published in the Wall Street Journal.

**Frequency & Timing:** The rate on this note may increase as often as New York prevalent prime increases. An increase in the interest rate will take effect immediately. The rate on this modification of note will not at any time (and no matter what happens to any index rate used) go above the maximum rate of 24%.

b. **Maturity Date:** The entire unpaid balance of principal and all accrued but unpaid interest, if not sooner paid, shall be due and payable on October 10, 1996 (the "Maturity Date").

**THIS LOAN IS PAYABLE IN FULL ON THE MATURITY DATE. BORROWERS MUST REPAY THE ENTIRE PRINCIPAL BALANCE OF THE LOAN AND UNPAID INTEREST THEN DUE. THE BANK IS UNDER NO OBLIGATION TO REFINANCE THE LOAN AT THAT TIME. BORROWERS WILL, THEREFORE, BE REQUIRED TO MAKE PAYMENT OUT OF OTHER ASSETS THAT BORROWERS MAY OWN, OR BORROWERS WILL HAVE TO FIND A LENDER, WHICH MAY BE THE BANK, WILLING TO LEND BORROWERS THE MONEY. IF BORROWERS REFINANCES THIS LOAN AT MATURITY, BORROWERS MAY HAVE TO PAY SOME OR ALL OF THE CLOSING COSTS NORMALLY ASSOCIATED WITH A NEW LOAN EVEN IF BORROWERS OBTAIN REFINANCING FROM THE BANK.**

c. Terms of Repayment: I agree to pay accrued interest monthly beginning May 10, 1996 and I agree to pay principal on or before October 10, 1996.

The unpaid balance of principal as of the effective date is \$950,000.00.

The commitment fee for the modification is \$791.66 per month until maturity, October 10, 1996, for a total of \$4,749.99.

**2. EXTENSION OF LIEN OF DEED OF TRUST.** The lien of the Deed of Trust shall be extended to the Maturity Date, plus any additional term permitted by the laws of the State of Mississippi.

**3. OTHER AND FUTURE ADVANCES.** All other money heretofore or hereafter advanced by the Bank at its option to or for the account of Borrowers, and any extensions or renewals therefore shall be secured by the Deed of Trust, except that any advances, liabilities, and indebtedness otherwise secured under the provisions of this paragraph shall not include any debt subject to the disclosure requirements of the Federal Truth-in-Lending Act if at the time such debt is or was created, any legally required disclosure of the security interest and lien contemplated herein shall not have been made.

**4. WAIVER OF RIGHTS OF REDEMPTION, HOMESTEAD, DOWER, CURTESY AND EXEMPTION.** Borrowers expressly waive all right of homestead exemption, the statutory right of redemption, and the equity of redemption, and relinquishes all right of dower and relinquishes all other rights or exemptions of every kind.

**5. LIMITED MODIFICATION.** Except as specifically set forth in this Agreement, the terms, conditions and provisions of the Note and Deed of Trust shall not be affected, modified, altered or impaired in any manner. It is the express intention of the parties that, except as specifically set forth herein, the original terms of the Note and Deed of Trust shall continue in full force.

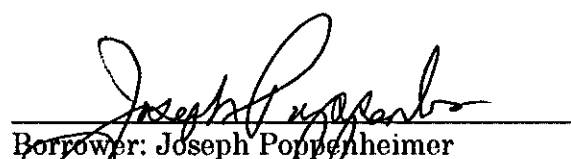
MAXIMUM PRINCIPAL INDEBTEDNESS FOR TENNESSEE RECORDING TAX PURPOSES IS \$0.00.

**IN WITNESS WHEREOF, the parties have executed this Agreement on the dates indicated.**

FIRST COMMERCIAL BANK, N.A. OF MEMPHIS

By: 

Travis B. Moore, Vice President

  
Borrower: Joseph Poppenheimer

  
Trustee: Eric L. Sappenfield

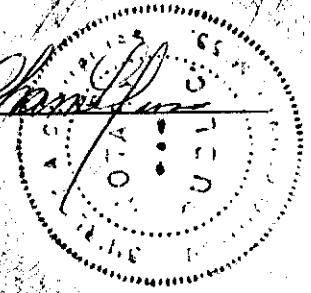
STATE OF MISSISSIPPI  
COUNTY OF DESOTO

Personally appeared before me, the undersigned authority in and for the said county and state, on this the 3rd day of May, 1996, within my jurisdiction, the within named TRAVIS B. MOORE, who acknowledged that he is VICE PRESIDENT of FIRST COMMERCIAL BANK, N.A. OF MEMPHIS, a Corporation, and that for and on behalf of the said corporation, and as its act and deed he executed the above and foregoing instrument, after first having been duly authorized by said Corporation so to do.

  
Notary Public

My Commission Expires:

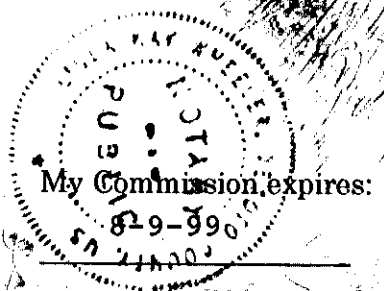
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STATE OF MISSISSIPPI )  
COUNTY OF DESOTO )

On this the 3rd day of May, 1996, before me personally appeared Joseph Poppenheimer to me known to be the person(s) described in and who executed the foregoing instrument, and who acknowledged that they executed the same as their free act and deed.

WITNESS MY HAND AND SEAL, at office, in said State and County, this the 3rd day of May, 1996.



Linda Kay Hodge  
Notary Public

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STATE OF TENNESSEE )  
COUNTY OF SHELBY )

On this the \_\_\_\_\_ day of \_\_\_\_\_, 1996, before me personally appeared Travis B. Moore to me known to be the person(s) described in and who executed the foregoing instrument, and who acknowledged that they executed the same as their free act and deed.

WITNESS MY HAND, at office, on the date above mentioned.

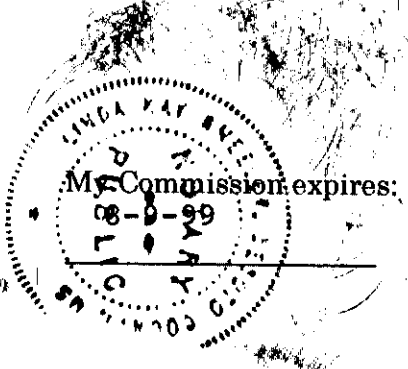
\_\_\_\_\_  
Notary Public

My Commission expires:  
\_\_\_\_\_

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STATE OF MISSISSIPPI )  
COUNTY OF DESOTO )

Before me, the undersigned Notary Public of the State and County aforesaid, personally appeared Eric L. Sappenfield with whom I am personally acquainted, and who, upon oath, acknowledged himself to be Trustee, one of the within named bargainers, and that he, as such Trustee, executed the foregoing instrument for the purposes therein contained.

WITNESS MY HAND AND SEAL, at office, in said State and County, this the 3rd day of May, 1996.



Linda Kay Hodge  
Notary Public